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C O N F I D E N T I A L SECTION 01 OF 02 KINSHASA 000876

E.O. 12958: DECL: 04/11/2007

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SUBJECT: UPDATE ON LAURENT KABILA ASSASSINATION TRIAL

REF: KINSHASA 793

CLASSIFIED BY: CLASSIFIED BY POLOFF LAURA ENGELBRECHT, REASONS 1.5 B & D

11. (C) SUMMARY: THE LAURENT KABILA ASSASSINATION TRIAL BEFORE A MILITARY TRIBUNAL BEGAN APRIL 3 IN A PUBLIC COURTROOM. CURRENTLY, THE WITNESSES AND SOME DEFENDANTS (SUCH AS EDDY KAPEND, FORMER AIDE-DE-CAMP TO KABILA AND ALLEGED COUP-PLOTTER) ARE TESTIFYING ON THEIR ROLES IN THE EVENTS IMMEDIATELY SURROUNDING THE ASSASSINATION. SEVERAL CONTRADICTORY VERSIONS HAVE BEEN PUT FORTH, AND THE COURT WILL LIKELY CONTINUE TO HEAR TESTIMONY FOR QUITE SOME TIME. NOW THAT THE TRIAL HAS STARTED, THERE IS AT LEAST A SEMBLANCE OF ORDER AND DUE PROCESS, A WELCOME CHANGE FROM THE LONG IMPRISONMENT OF THE ACCUSED WITHOUT CHARGES OR LAWYERS. END SUMMARY.

12. (C) POLOFF ATTENDED TWO SESSIONS OF THE ONGOING TRIAL FOR THE 116 DEFENDANTS IN THE LDK ASSASSINATION. THE TRIAL IS BEING HELD AT MAKALA CENTRAL PRISON, AND BY PREVAILING LOCAL STANDARDS, IT IS QUITE WELL ORGANIZED AND ACCESSIBLE TO THE PUBLIC. THE COURTROOM INCLUDES A RAISED PLATFORM FOR THE MILITARY JUDGES, A TABLE FACING IT FOR WITNESSES AND LAWYERS, A SEATING SECTION FOR THE DEFENDANTS (LOOKS LIKE A JURY BOX), AND ROWS OF SEATING FOR THE LAWYERS (OVER 100). THE PUBLIC (MAINLY RELATIVES AND FRIENDS OF THE DEFENDANTS) IS SEATED IN AN ADJOINING COURTYARD UNDER A SHADE SHELTER. ALL JUDGES, LAWYERS, AND WITNESSES USE MICROPHONES, AND THE TRIAL CAN BE CLEARLY HEARD BY ALL. MANY OF THE OTHER MAKALA PRISONERS HAVE BEEN ALLOWED TO COME AND WATCH THE TRIAL. MILITARY AND POLICE PRESENCE (INCLUDING ZIMBABWEAN SOLDIERS) IS HEAVY BUT NOT MENACING. THERE IS A RELAXED ATMOSPHERE DURING THE COURT RECESSES - EVERYONE (THE LAWYERS, JUDGES, MILITARY, MAKALA PRISONERS, AND EVEN THE DEFENDANTS IN THE TRIAL) STAND AROUND CHATTING TOGETHER IN THE COURTYARD, WHERE VENDORS HAWK DRINKS AND SANDWICHES.

13. (C) FOLLOWING IS A BRIEF SUMMARY OF THE DAILY PROGRESSION OF THE TRIAL:

APRIL 3: THE COURT CONSIDERED TECHNICAL QUESTIONS AND OBJECTIONS TO PROCEDURE RAISED BY THE DEFENSE LAWYERS.

APRIL 4-5: THE COURT MOVED IMMEDIATELY TO HEARING TESTIMONY ABOUT THE EVENTS SURROUNDING THE ASSASSINATION. SEVERAL DEFENDANTS (KAPEND AND THREE MILITARY GUARDS) TESTIFIED, AS DID FORMER FINANCE ADVISOR MOTA, WHO WAS WITH THE PRESIDENT AT THE TIME OF THE ASSASSINATION. THEIR VERSIONS OF EVENTS DIFFER SIGNIFICANTLY. KAPEND HAS DENIED THAT HE KILLED THE ASSASSIN RASHIDI, SAYING RASHIDI COMMITTED SUICIDE AND KAPEND EMPTIED HIS GUN INTO HIM "OUT OF ANGER" AFTER HE WAS ALREADY DEAD. MOTA CLAIMS HE SAW NO HUMAN BEINGS IN THE COMPOUND RIGHT AFTER THE SHOOTING, ONLY A COW. CHIRIBAGULA, ONE OF THE GUARDS, CLAIMS MOTA NOT ONLY SAW HIM, BUT SPOKE TO HIM ("AND I AM NOT A COW"). MOTA, WHO WAS IN COURT MERELY AS A WITNESS, HAS NOW BEEN DETAINED FOR THE DURATION OF THE TRIAL ON THE GROUNDS OF SELF-CONTRADICTORY TESTIMONY (PROBABLY TO PREVENT HIM FROM FLEEING). (NOTE: MOTA'S COW STORY MAY HAVE BEEN AN ATTEMPT TO IMPLY THAT THERE WAS SORCERY INVOLVED, AS SOME CONGOLESE BELIEVE THAT PEOPLE CAN TURN THEMSELVES INTO ANIMALS THROUGH MAGIC.)

APRIL 8: THE COURT MOVED TEMPORARILY TO THE PALAIS DE MARBRE, THE SITE OF THE ASSASSINATION, TO ALLOW THE WITNESSES TO REENACT THE EVENTS.

APRIL 9-10: MORE TESTIMONY WAS HEARD. THE DRIVER OF GEORGES MIRINDI (AN ALLEGED CONSPIRATOR IN THE PLOT) TESTIFIED THAT ON THE DAY BEFORE THE ASSASSINATION, HE WARNED LAURENT KABILA'S DRIVER OF THE PLOT AND TOLD KABILA'S DRIVER TO INFORM THE HIERARCHY. KABILA'S DRIVER TESTIFIED THAT HE INFORMED THE SECURITY SERVICES. THE TWO SECURITY SERVICES OFFICERS SAID THEY HAD HAD NO TRANSPORTATION TO GO ARREST MIRINDI. THEIR BOSS TESTIFIED THAT HE HAD NOT BEEN TOLD.

APRIL 11: GAETAN KAKUDJI, LAURENT KABILA'S FORMER MINISTER OF INTERIOR AND CLOSE ADVISOR, TESTIFIED ABOUT HIS AND OTHER SENIOR ADVISORS' (INCLUDING MWENZE KONGOLO) ACTIONS IMMEDIATELY AFTER THE SHOOTING. HE TALKED ABOUT A MEETING TO DISCUSS PLACING JOSEPH KABILA IN THE PRESIDENCY TO KEEP THINGS STABLE, AND HE STRESSED THAT THEY WERE TRYING TO CARRY OUT LDK'S WISHES. HE CONTRADICTED AND CORRECTED HIMSELF ON OCCASION DURING HIS TESTIMONY, AND HIS ATTEMPTS AT HUMOR BORDERED AT TIMES ON IMPUDENCE IN ADDRESSING THE JUDGE.

14. (C) EVEN BEFORE THE TRIAL BEGAN, IT HAD SEVERE DUE PROCESS PROBLEMS, SUCH AS THE YEAR-LONG JAILING OF DEFENDANTS WITHOUT LAWYERS OR CHARGES, THE SHORT AMOUNT OF TIME GIVEN TO PREPARE THE DEFENSE, THE TRIAL OF SO MANY DEFENDANTS ON WIDELY VARYING CHARGES IN A SINGLE TRIAL, AND THE TRIAL OF CIVILIANS IN A MILITARY COURT. NEVERTHELESS, NOW THAT IT HAS BEGUN, THE TRIAL SEEMS TO BE PROCEEDING MORE-OR-LESS SMOOTHLY AND OPENLY, WITH BOTH THE PROSECUTION AND DEFENSE HAVING ADEQUATE TIME TO CROSS-EXAMINE THE WITNESSES. MANY ASPECTS OF THE PROCEDURE LOOK STRANGE TO U.S. OBSERVORS (SUCH AS REQUIRING DEFENDANTS TO TESTIFY, THE ORDER OF WITNESSES, ETC...), BUT THIS IS LARGELY DUE TO THE FACT THAT THE DRC MILITARY COURT (COM) CODE IS BASED ON THE 1960'S BELGIAN PENAL CODE AND IS QUITE DIFFERENT FROM TRIAL FORMAT USED IN U.S. CIVILIAN COURTS.

15. (C) BOTH THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) AND THE INTERNATIONAL HUMAN RIGHTS LAW GROUP HAVE MONITORS IN REGULAR ATTENDANCE AT THE TRIAL. EACH DAY'S PROCEEDINGS ARE ALSO COVERED EXTENSIVELY IN THE LOCAL PRESS AND, AS DEVELOPMENTS WARRANT, BY INTERNATIONAL JOURNALISTS.

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